

Date: November 14, 2002

To: County and District Superintendents
County and District Chief Business Officials
Charter School Administrators

From: Janet Sterling, Director
School Fiscal Services Division

Subject: **Update of Recent Charter School Legislation**

Significant changes in charter school law occurred in the recent legislative session. This letter is intended to give you an overview of those changes. Charter schools and authorizing entities are encouraged to review the actual text of each bill. Chaptered versions of each of these bills may be found on the Internet at: <http://www.assembly.ca.gov/acs/acsframeset2text.htm>.

Over the next several months, the California Department of Education (CDE) will be working closely with the State Board of Education (SBE) and the SBE's Advisory Commission on Charter Schools (ACCS) to interpret and implement these new laws. Summaries of significant charter school legislation are grouped by major topics below. All new laws are effective beginning January 1, 2003, unless otherwise noted.

Charter School Approvals and Operations

Assembly Bill (AB) 1994 (Reyes), Chapter 1058/02. This bill, the most comprehensive charter legislation this year, makes significant revisions to charter school law regarding charter petitions and approvals, financial reporting, and the location of charter school operations. Over the next several months, the SBE, in cooperation with the CDE and the ACCS will be working to interpret and implement the bill's provisions through regulation. The key provisions of AB 1994 include:

New Geographic Restrictions on Charter Schools-

- Permits a charter school to operate only within the geographic jurisdiction of the school district that authorized it, except as specified.
- Allows a charter school to operate one site outside of the district of authorization, but within the county in which the authorizing district is located, under specified conditions.
- Requires a charter petition to identify each site where the school will operate.

- Permits a charter school to establish additional sites only with the approval of the authorizing entity as a material revision to the charter.
- Requires a petition that is approved on appeal to a county office of education (COE) or the SBE to meet the geographic restrictions that would have applied to the charter school in the district that denied it.
- Establishes various time lines and exemptions for compliance with the geographic restrictions imposed:
 - ✓ The site restrictions apply to any school authorized after July 1, 2002.
 - ✓ For any school authorized prior to July 1, 2002, but that does not commence instruction until July 1, 2002 or later, the restrictions apply upon expiration of the charter that is in effect on January 1, 2003.
 - ✓ Existing schools cannot establish any additional sites after July 1, 2002, unless the site is authorized in accordance with the restrictions established in the bill.
 - ✓ Existing schools must come into compliance with the geographic restrictions by the expiration of the charter term or July 1, 2005, whichever is later.
 - ✓ The site restrictions do not apply to facilities used as resource centers, meeting spaces, or satellite sites used exclusively for non-classroom based independent study if a majority of the charter school pupils are residents of the county in which the charter is authorized.
 - ✓ The site restrictions do not apply to charter schools that provide services exclusively to pupils enrolled in specified federal or state programs such as the California Conservation Corp.

New Requirements for Charter Proposals and the Chartering Process-

- Requires a charter petition for a school that will serve high school pupils to include a description of how the school will notify parents about the transferability of its courses to other public high schools and the eligibility of courses to meet college entrance requirements.
- Requires a charter petition to include specified procedures to be used if the school closes.

- Requires charter petitioners to provide a copy of their approved charter to the COE and the CDE.
- Requires a charter petitioner whose petition has been denied, to appeal to the COE prior to bringing the petition to the SBE on appeal.
- Prohibits charter schools approved after January 1, 2003, from serving grade levels not served by the authorizing entity unless it serves all of the grades offered by the authorizing entity.
- Requires a new charter school to commence operation by September 30 of a fiscal year.

New Financial Reporting Requirements and Fiscal Provisions-

- Requires charter schools to provide to their chartering entity an annual financial report in a format prescribed by the Superintendent of Public Instruction (SPI). This information will then be transmitted to the SPI.
- Requires a charter school to submit its annual audit to the State Controller and the COE in addition to the CDE and the charter authorizing entity.
- Makes technical and clarifying changes related to apportionments for SBE-authorized charter schools and all-charter districts.

New Authority for County Offices of Education-

- Authorizes COEs to investigate complaints and monitor charter schools, and requires a charter school to respond to information requests from COEs.
- Establishes new authority for county boards of education to approve charter schools that may operate multiple sites within the county if the county board finds the charter could not serve the pupils through a district-approved charter. A county board may also impose any other requirements that it deems necessary for sound operation of the school or deny a charter of this type for any reason it finds justified. A denial by a county board under this section cannot be appealed to the SBE. Any charter school approved under this authority must notify each school district in the county where the charter school will operate.

New Authority for the State Board of Education-

- Requires the SBE to assign separate charter numbers to each site of a multi-site charter school if the sites do not share a common educational program.
- Establishes new authority for the SBE to approve charter schools that propose to operate multiple sites throughout the State. Requires the SBE to adopt regulations to implement these provisions. The SBE must find that the school will provide instructional services of a statewide benefit that cannot be met by a district-or county-authorized charter. The SBE may deny a charter of this type for any reason it finds justified. Any charter school approved under this authority must notify each school district where the charter school will operate.

(*Education Code* sections 1628, 42100, and 47602 through 47612.1.)

Charter School Facilities Issues

Senate Bill (SB) 2039 (O'Connell), Chapter 586/02. This bill, an urgency measure effective September 14, 2002, makes changes to the charter school facilities grant program that was established last year in SB 740 (Chapter 892/01). Specifically, this bill expands eligibility for a facilities reimbursement grant to charter schools in which at least 70 percent of the pupil population is eligible for free or reduced price meals. This bill also clarifies the types of facilities costs that are eligible for reimbursement. The new eligibility criteria will be applied to reimbursements of 2001-02 costs. Therefore, charter schools that believe they met the new criteria during the 2001-02 fiscal year should submit an application to the CDE. Applications are available on the Internet at: <http://www.cde.ca.gov/charter/>. Specific application materials that reflect the changes in the law have been mailed to each eligible charter school in a separate mailing. The 2002 Budget Act contains \$10 million to reimburse eligible applicants for costs incurred during 2001-02. If the program is oversubscribed, a proportional reduction will be made. Funds for reimbursement of costs incurred during the 2002-03 fiscal year have not been appropriated, but are expected to be included in the 2003-04 Governor's Budget. (*Education Code* sections 47614.5 and 47605.3.)

Assembly Bill 14 (Goldberg), Chapter 935/02. This bill establishes a charter school facilities program to allocate state school facilities bond funds. The school bond measure adopted by Proposition 47, on the November ballot, specifically includes up to \$100 million for charter school facilities. This bill establishes the program to allocate these funds. Specifically, the law allows "financially sound" charter schools to apply for funding to build, purchase, or retrofit facilities for use by the charter school. An eligible charter school must be located in a school district that has school building program eligibility and may apply directly or through the school district. One-half of the project cost would be provided as a grant, and the charter school, through "lease" payments or in a lump sum, would pay the other half. Projects approved under this program must meet all

Field Act requirements and all other reviews and approvals required of traditional schools in the state school building program. The CDE will not have a direct role in implementing this program. It will be administered through the California School Finance Authority and the State Allocation Board (*Education Code* sections 17078.50 through 17180.5.)

Charter School Fiscal and Block Grant Issues

Assembly Bill 168 (Nation), Chapter 36/02. This is an urgency bill that was effective May 10, 2002. It extends the sunset for the continuous appropriation for the charter school block grant. This bill is necessary to provide the CDE with authority to disburse block grant funds to charter schools. (*Education Code* Section 47612.)

Assembly Bill 1781 (Hertzberg), Chapter 802/02. This bill consolidates various existing instructional materials programs and funding into the Instructional Materials Funding Realignment Program. The impact on charter schools of this realignment is that instructional materials programs included in the charter school categorical block grant have been removed and merged into the new instructional materials program, which is not included in the block grant calculation. As a result, charter schools must now apply separately for funding for the Instructional Materials Funding Realignment Program and comply with program requirements. (*Education Code* sections 60240 through 60247.5.)

Assembly Bill 2781 (Oropeza), Chapter 1167/02. This is the Education Trailer Bill to the 2002 Budget Act and is an urgency statute effective for the 2002-03 fiscal year. Section 10 of the bill revises the calculation method used to determine the growth rate for the charter school categorical block grant to base it on final State Budget Act data rather than May Revision data. (*Education Code* Section 47634.5.)

Assembly Bill 2912 (Florez), Chapter 930/02. This bill allows all-charter districts that are not funded through the charter school block grant to receive declining enrollment funding for average daily attendance (ADA) generated by students who reside in the district. (*Education Code* sections 42238.5, 42238.52, and 42238.53.)

Senate Bill 1708 (Poochigian), Chapter 117/02. This bill allows charter schools to report ADA and receive funding if they are providing extended year services to special education students pursuant to an individualized education program (IEP). This is a technical correction to ensure charter schools receive the funding for services provided. This change will be reflected in CDE's ADA data collection process for the 2002-03 fiscal year. (*Education Code* Section 47646.)

Senate Bill 1709 (Poochigian), Chapter 209/02. This bill requires a charter school to transmit a copy of its annual audit to the State Controller and the COE where the charter school is located. This provision is also contained in AB 1994. (*Education Code* Section 47605.)

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The information contained in this memorandum is advisory only. Charter schools and authorizing entities are encouraged to review the actual laws that provide the basis for this memo and consult with their own legal counsel regarding the application of any of these issues to a specific situation.

This memo is also available on the CDE website at: www.cde.ca.gov/charter/legislation. If you have general questions about charter schools, please visit our website at: www.cde.ca.gov/charter or contact our Charter Schools Office at (916) 322-6029.